

PROPOSED AMENDMENT

SB 309 # 31

DIGEST

Corporate income and financial institutions tax rate. Provides that a corporation or financial institution entering into an economic development incentive agreement for any program administered by the Indiana economic development corporation must agree to pay the corporate income tax rate or the financial institutions tax rate in effect on January 1, 2017, in certain circumstances. Specifies the condition applies if: (1) the incentive recipient reduces or eliminates employment at an Indiana location that becomes subject to the Federal Worker Adjustment and Retraining Notification Act; and (2) an employee becomes eligible for assistance under the Federal Trade Adjustment Assistance Act.

- 1 Page 2, between lines 18 and 19, begin a new paragraph and insert:
2 "SECTION 2. IC 5-28-6-9 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2016]: **Sec. 9. The corporation shall require in each agreement**
5 **providing any type of incentive under this article to a person**
6 **subject to the corporate adjusted gross income tax or the financial**
7 **institutions tax a provision that requires the recipient to pay the**
8 **corporate income tax or the financial institutions tax, whichever**
9 **applies, at the tax rate in effect on January 1, 2017, if:**
10 **(1) the incentive recipient reduces or eliminates employment**
11 **at an Indiana location that becomes subject to the Federal**
12 **Worker Adjustment and Retraining Notification Act (29**
13 **U.S.C. 2101 through 29 U.S.C. 2109); and**
14 **(2) any employee of the incentive recipient becomes eligible**
15 **for assistance under the Federal Trade Adjustment Assistance**
16 **Act (19 U.S.C. 2251 through 19 U.S.C. 2401)."**
17 Page 28, between lines 17 and 18, begin a new paragraph and insert:
18 "SECTION 25. IC 6-3-2-1, AS AMENDED BY P.L.80-2014,
19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2016]: Sec. 1. (a) Each taxable year, a tax at the following rate
21 of adjusted gross income is imposed upon the adjusted gross income of
22 every resident person, and on that part of the adjusted gross income
23 derived from sources within Indiana of every nonresident person:

(1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4%).

(2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3%).

(3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23%).

(b) Except as provided in section 1.5 of this chapter **and subsection (d)**, each taxable year, a tax at the following rate of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation:

(1) Before July 1, 2012, eight and five-tenths percent (8.5%).

(2) After June 30, 2012, and before July 1, 2013, eight percent (8.0%).

(3) After June 30, 2013, and before July 1, 2014, seven and five-tenths percent (7.5%).

(4) After June 30, 2014, and before July 1, 2015, seven percent (7.0%).

(5) After June 30, 2015, and before July 1, 2016, six and five-tenths percent (6.5%).

(6) After June 30, 2016, and before July 1, 2017, six and twenty-five hundredths percent (6.25%).

(7) After June 30, 2017, and before July 1, 2018, six percent (6.0%).

(8) After June 30, 2018, and before July 1, 2019, five and seventy-five hundredths percent (5.75%).

(9) After June 30, 2019, and before July 1, 2020, five and five-tenths percent (5.5%).

(10) After June 30, 2020, and before July 1, 2021, five and twenty-five hundredths percent (5.25%).

(11) After June 30, 2021, four and nine-tenths percent (4.9%).

(c) If for any taxable year a taxpayer is subject to different tax rates under subsection (b), the taxpayer's tax rate for that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede the month the rate changed by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow the month before the rate changed by the rate in effect after the rate change.

1 STEP THREE: Divide the sum of the amounts determined under
2 STEPS ONE and TWO by twelve (12).

3 However, the rate determined under this subsection shall be rounded
4 to the nearest one-hundredth of one percent (0.01%).

5 **(d) If the Indiana economic development corporation (IEDC)**
6 **determines that the provision required by IC 5-28-6-9 subjects the**
7 **corporation to the corporate income tax rate in effect on January**
8 **1, 2017, the IEDC shall notify the corporation and the department**
9 **and the corporation shall compute its tax liability for the current**
10 **taxable year using the tax rate in effect on January 1, 2017."**

11 Page 49, between lines 11 and 12, begin a new paragraph and insert:
12 "SECTION 57. IC 6-5.5-2-1, AS AMENDED BY P.L.80-2014,
13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2016]: Sec. 1. (a) There is imposed on each taxpayer a
15 franchise tax measured by the taxpayer's apportioned income for the
16 privilege of exercising its franchise or the corporate privilege of
17 transacting the business of a financial institution in Indiana. The
18 amount of the tax for a taxable year shall be determined by multiplying
19 the applicable rate under subsection (b) times the remainder of:

- 20 (1) the taxpayer's apportioned income; minus
 - 21 (2) the taxpayer's deductible Indiana net operating losses as
 - 22 determined under this section; minus
 - 23 (3) the taxpayer's net capital losses minus the taxpayer's net
 - 24 capital gains computed under the Internal Revenue Code for each
 - 25 taxable year or part of a taxable year beginning after December
 - 26 31, 1989, multiplied by the apportionment percentage applicable
 - 27 to the taxpayer under this chapter for the taxable year of the loss.
- 28 A net capital loss for a taxable year is a net capital loss carryover to
29 each of the five (5) taxable years that follow the taxable year in which
30 the loss occurred.

31 **(b) Except as provided in subsection (f), the following are the**
32 **applicable tax rates to be used under subsection (a):**

- 33 (1) For taxable years beginning before January 1, 2014, eight and
- 34 five-tenths percent (8.5%).
- 35 (2) For taxable years beginning after December 31, 2013, and
- 36 before January 1, 2015, eight percent (8.0%).
- 37 (3) For taxable years beginning after December 31, 2014, and
- 38 before January 1, 2016, seven and five-tenths percent (7.5%).
- 39 (4) For taxable years beginning after December 31, 2015, and
- 40 before January 1, 2017, seven percent (7.0%).

(5) For taxable years beginning after December 31, 2016, and before January 1, 2019, six and five-tenths percent (6.5%).

(6) For taxable years beginning after December 31, 2018, and before January 1, 2020, six and twenty-five hundredths percent (6.25%).

(7) For taxable years beginning after December 31, 2019, and before January 1, 2021, six percent (6.0%).

(8) For taxable years beginning after December 31, 2020, and before January 1, 2022, five and five-tenths percent (5.5%).

(9) For taxable years beginning after December 31, 2021, and before January 1, 2023, five percent (5.0%).

(10) For taxable years beginning after December 31, 2022, four and nine-tenths percent (4.9%).

(c) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(d) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(e) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

1 (B) the receipts of all taxpayer members of the unitary group
2 attributable to Indiana.

3 (2) The net capital loss or net operating loss for that year, if any,
4 to be carried forward to any subsequent year shall be limited to
5 the capital gains or apportioned income for the subsequent year
6 of that taxpayer, determined by the same receipts formula set out
7 in subdivision (1).

8 **(f) If the Indiana economic development corporation (IEDC)**
9 **determines that the provision required by IC 5-28-6-9 subjects the**
10 **financial institution to the financial institutions tax rate in effect on**
11 **January 1, 2017, the IEDC shall notify the financial institution and**
12 **the department and the financial institution shall compute its tax**
13 **liability for the current taxable year using the tax rate in effect on**
14 **January 1, 2017."**

15 Renumber all SECTIONS consecutively.

(Reference is to SB 309 as reprinted February 3, 2016.)